



IN THE HIGH COURT OF MALAWI

PRINCIPAL REGISTRY

CIVIL CAUSE NO. 1675 OF 1998

BETWEEN:

WILLIAM CHISOMO..... PLAINTIF

- and -

I. ALI t/a I. ALI TRANSPORT & OTHERS.....1st DEFENDANT
MATHEWS KALIWA.....2ND DEFENDANT
NATIONAL INSURANCE COMPANY.....3RD DEFENDANT

CORAM: POTANI, REGISTRAR
Msungama, Counsel for the Plaintiff

ORDER ON ASSESSMENT OF DAMAGES

The plaintiff's action is for damages for loss of dependency. The action arises from the death of his father, Staneley Chisomo. A default judgment for damages to be assessed was entered in favour of the plaintiff. Subsequently, the matter was set down for assessment of damages but despite being duly served with the requisite notice none of the defendant attended the hearing.

According to the plaintiff, William Chisomo, who is the only witness who testified in this matter his late father was employed as a driver by the 2nd defendant. He died while in a vehicle driven by the 1st defendant; also a driver for the 2nd defendant.

The deceased, according to the plaintiff was earning about K1,000.00 a month. The deceased used to work after and provide for his three children, that is, the plaintiff (William Chisomo) aged 25, a daughter Ndifeyani Chisomo aged 22, a son Gabriel Chisomo aged 7 besides a

sister Felista Chisomo aged 50 and a father William Chisomo in his sixties.

The approach by courts have developed over the yhears in arriving at awards for loss of dependency involves what can conveniently be described as the multiplicand and multiplier formula. The multiplicand is the figure representing the deceased's monthly income and the multiplier is the estimated number of years the deceased would have continued to live if it were not for the wrongful death. In order to arrive at the award for loss of dependency, the multiplicand as multiplied by the multiplier and then the figure of 12 representing the umber of months in a year. Then on the resultant product a reduction of one third representing the amount the deceased would have spent on purely personal needs.

In the case at hand the plaintiff has estimated the age of his late father to have been in the forties. For purposes of this assessment it would be pegged at 45. It can reasonably be assumed that the deceased could have lived on up to the age of 65 hence a further 20 years of life and probably would have worked for 15 years out of those 20 years. In the circumstances the calculation for loss of dependency would be as follows:

$K1000 \times 15 \times 12 \times 2/3$ which comes to K120,000.00

What has to be next considered is the apportionment of the awarded sum to the deceased's five dependants. It is ordered that the award sum be apportioned as follows:

William Chisom (son/plaintiff)	K20,000.00
Ndifeyani Chisomo (daughter)	K30,000.00
Gabriel CHisomo (son)	K40,000.00
Felista Chisomo (sister)	K10,000.00
William Chisomo (father)	K20,000.00

It is further ordered that the sum apportioned to Gabriel Chisomo who is a minor be paid into court to be deposited in an interesting earning account for his benefit until he attains minority age.

Made in Chambers this day of March 23, 2011 at Blantyre.


H.S.B. Potani
REGISTRAR